

BOARD OF FORESTRY AND FIRE PROTECTION

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MINUTES BOARD OF FORESTRY AND FIRE PROTECTION November 2 and 3, 2004 Sacramento, California

BOARD OF FORESTRY MEMBERS PRESENT:

Stan Dixon, Chairman
Mark Bosetti
Susan Britting
David Nawi
Tharon O'Dell
Gary Rynearson
Nancy Drinkard

BOARD STAFF:

George Gentry, Executive Officer
Eric Huff, Executive Officer, Foresters Licensing
Chris Zimny, Regulations Coordinator
Mark Hite, Committee Staff
Laura Estrada, Office Technician

DEPARTMENTAL STAFF:

Dale Geldert, Director, Forestry and Fire Protection

CALL TO ORDER

Chairman Dixon called the November 2004 meeting to order.

REPORT OF EXECUTIVE SESSION

Mr. George Gentry, Executive Officer, went over the item that was discussed regarding the existing Fuel Hazard Regulation relative to the enactment of AB 2420. The Board made a determination that it was appropriate to discuss in Executive Session. under the Bagley Keene act and had further discussions regarding these regulations .

APPROVAL OF MINUTES

Chairman Dixon asked the Board to consider approval of the October 2004 minutes.

04-3-3 Mr. Nawi indicated that there were some minor editorial corrections and moved to approve the October 2004 minutes as amended. Mr. Rynearson seconded the motion, and all were in favor.

CONSENT CALENDAR

No consent items to report.

REPORT OF THE CHAIRMAN

Chairman Dixon reported that he attended a California Licensed Foresters Association Oaks Workshop in Redding on October 25, 2004.

REPORT OF THE DIRECTOR

Mr. Dale Geldert, Director, Forestry and Fire Protection, provided an update on the California Performance Review (CPR). The Director assembled a team from throughout the entire Department and from every classification to volunteer to come to Sacramento and they were sequestered in a hotel where they worked on the CPR recommendations for one week. Dean Cromwell was the Chair of the team. The report was delivered to the Director for finalization and then forwarded to Agency. Agency took all the reports the departments and forwarded them to the Governor's office, from where they will be forwarded to the Little Hoover Commission

REPORT ON THE GOVERNOR'S BLUE RIBBON FIRE COMMISSION ACTION PLAN

The Director reported that the Blue Ribbon Commission recommendations will be addressed statewide by the different Fire Chief groups and the Unions. They will be working as a team to look at the recommendations. Some of the recommendations are very complex and may never be completed. There are also Federal issues that will need to be addressed. The Director indicated that it is a very good document and they will make it work.

The Director and Mr. Bill Stewart went to San Francisco to meet with conversationalist and environmentalist. The Director asked the groups what can be done to make CDF better and what needs to be changed. He indicated that there was positive feedback from the groups.

The Director announced that there will be an extended Fire Season for Southern California once the fire season is closed in Northern California. They will be doing assessments based on the weather. A plan is currently underway with extraordinary resources given by the Governor under his executive order. They will be changing the engines that are currently used and will be placing aircraft and helicopters in Southern California. They will be moving caches down from the North because they are no longer needed in Northern California. In addition, the Director met with various Chiefs from Southern California and suggested that when they have weather patterns that are conducive to fires in San Diego, that they immediately meet together or on a conference call to discuss resources and what the Departments capabilities are so everyone works as a team. The Director will be meeting with two Southern California Chiefs today to further discuss this matter. This will be standard practice with CDF.

The Director announced that he has split a position in CDF with the legislation and communications.

The Director has three legislative trips planned in the Southern Region for the legislators in San Bernardino, Riverside and San Diego. The Director will be talking to the legislators on how fires work and issues based on fires. In addition, he will give an overview of CDF to Legislators. This will be taking place in a few weeks. In addition, at the end of every fire year, CDF will be reviewing every single major fire with the Incident Commanders and go over areas such as what can be done to improve the situation on the fire and how resources were handled.

The Director has been visiting areas in the Northern Region and Southern Region and reviewing both mortality of the landscape and reforestation areas.

The Director went over Wildland Urban Interface. He indicated that most cities have a wildland interface and a high percentage of those areas have huge fuel management problems. These are huge biomass problem areas. Many of the CDF's fires are evolving out of these areas. The Director and his staff will be working on some public

safety announcements and some definitions to spread this information out. He asked the Board to consider that wildland is not just in the foothills. It is also in the metropolitan areas as well.

PRESENTATIONS AND DISCUSSIONS REGARDING THE FIRE AND RESOURCE ASSESSMENT PROGRAM POLICY STATEMENT PER PRC 4789

Mr. George Gentry, Executive Officer for the Board, announced that the policy statement PRC 4789 hearing will be in Redding. Mr. Gentry said that Eric Huff will outline the date regarding this meeting.

Mr. Eric Huff, Executive Officer, Foresters Licensing, announced that a mailer has gone out on the FRAP Assessment and notification on the date and time of the hearing. It will be November 18, 2004, from 9:00 a.m. to 4:30 p.m. in the City Counsel Chambers of Redding. The mailer went out to the Forester's Licensing list, FRAP list, CLFA, Sierra Club and the Board's mailing list, among others.

DISCUSSION REGARDING THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) AND MANAGEMENT PLAN FOR JACKSON DEMONSTRATION STATE FOREST

Mr. George Gentry, Executive Officer of the Board, announced that Mr. Chris Rowney, Deputy Chief, Resource Management, Forestry and Fire Protection, would be giving the Board an update on the progress of the DEIR.

Mr. Rowney is continuing to work on the project. He recognizes the need to get back to the Board on a timely manner. Some of the elements are complete and the goal is set for December 1, 2004.

Mr. Rowney announced that he has accepted an Administrative position in the Mendocino Unit.

Board member Nawi asked Mr. Rowney, what he would have completed by December 1, 2004.

Mr. Rowney, informed Board member Nawi that the Department should have something completed that the Sub Committee could be able to review.

REPORT OF THE ADVISORY COMMITTEES

PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)

Mr. Eric Huff, Executive Officer, Forester's Licensing, distributed a handout on RPF Vital Statistics. He announced that RPF# 366 has requested 5 year Withdrawal for retirement. A certified Rangeland Manager has requested voluntary relinquishment, E. Lee Fitzhugh CRM# 24. In addition, Mr. Huff said that he had several names of Registered Professional Foresters that will have their license revoked, but would not give the names due to the fact he was currently trying to get a hold of these applicants.

04-15-3 Mr. Rynearson moved to approve the above RPF withdrawals, and relinquishments. Mr. Nawi seconded the motion, and all were in favor

CALIFORNIA FOREST PEST COUNCIL (CFPC)

Nothing to report.

MONITORING STUDY GROUP (MSG)

Nothing to report

EXECUTIVE OFFICERS REPORT

Mr. George Gentry, Executive Officer to the Board, reported that he emailed the Board members what their flexibility was on a one-day meeting for December 2004. Mr. Gentry said that he did not have a conflict on December 8, 2004, so that is the date he will be setting for the Board meeting. At this time he is trying to confirm the Twin Towers, which is located on P Street, but is still looking into the Resources Building.

Mr. Gentry announced that Linda Cano, who comes from the Public Affairs Department with CDF, will be the Boards Executive Assistant. Her start date will be November 15, 2004.

OVERVIEWS OF BOARD RESPONSIBILITIES FOR FIRE RELATED LAWS AND REGULATION: FIRE SAFETY REVIEW OF COUNTY GENERAL PLAN PER PRC 4128.5 AND GC 13360; STATE RESPONSIBILITY AREA CLASSIFICATIONS PER PRC 4125-4128 AND 14 CCR 1270

Mr. Chris Zimny, Regulations Coordinator, went over one of the items before the Resource Protection Committee, which was the Board of Forestry requirements review of the County General Plan, specifically the Fire Safety Element of the General Plan. Mr. Zimny referred the Board to a Power Point Handout he distributed to the Board members and additional handouts in reference to the General Plan.

Mr. Zimny reported that recent changes to the Public Resources Code repealed the requirement of 4128.5, which was the Board's responsibility for review and incorporated them into Government Code section 65302. One of the additional new amendments for 65302 was in addition to the Board required review of the Fire Safe Element of the General Plan in Counties where there are SRA, it is also now required to review local government plans with a high fire hazard safety zone as defined by the Board.

The review that the Board is supposed to do on 65302 is supposed to address the fire safety element of the General Plan. The current process that is now under 65302 is that the County will draft the elements related to fire safety and they shall be submitted to the Board of Forestry 90 days prior to the adoption of the amendment of the safety element to the General Plan. The Board responds within sixty days of the receipt of that adoption. The Board is to supply recommendations to the County regarding the amendments to the fire safety element. Prior to the adoption of the elements by the Board of Supervisors, the Board of Supervisors will consider the recommendations made by the Board and determine if they want to accept them. If they don't they shall communicate in writing to the Board of Forestry the reasons why they did not include the recommendations.

Mr. Zimny additionally went over how the Board is to establish the framework to routinely conduct the reviews. He indicated that the Board staff wanted to create a template when conducting such reviews. In addition, Marin County has recently presented on August 30, 2004, its amendments to the General Plan on the fire safety element.

Mark Bosetti, Chairman of the Resource Protection Committee, commented that the Board has had a long-standing obligation regarding this issue and how it has been reviewed in the past. AB 3065 has prompted this change. Staff went back to review and make sure it was current and proposed that changes be submitted. The Resource Protection Committee's standpoint is that the Board needs to propose recommendations to the County and forward them. This can be done through the Committee or can be presented to the full Board as it comes about. Member Bosetti said that a connection does need to be established so that we are on the same page.

Mr. Rynearson asked if this is the first of fifty-eight.

Mr. Bosetti said it could be.

Mr. Gentry said that the County is supposed to send the safety element to the Board.

Mr. O'Dell commented that the Boards responsibility are met through unsolicited information through the State. There is no way to predict workload

Mr. Bosetti commented that the Board could give the County some guidance on what we are looking for. There is no way to predict the workload.

Mr. Nawi asked member Bosetti what his thoughts were on what member O'Dell suggested regarding the Resource Protection Committee on whether the Board should be doing the initial review.

Mr. Bosetti commented that the full Board should get a look at this and be a part of the final approval because the Chairman's signature will be going on this document.

Chairman Dixon agreed with member Bosetti. The process will refine itself through the Board. At some point it could be a consent item on the Board's regular agenda.

Mr. Ryneason asked if this document is ready to go out now.

Mr. Bosetti said the Marin County document is ready to go out now and is ready to go forward to the County Board of Supervisors for their review.

Mr. Gentry reported that the Marin County Fire Plan is a very complete Fire Plan. It basically adopts most of the elements on the State Fire Plan.. However, some elements that were discussed could be emphasized in the letter as a sub set.

Mr. Zimny said that the Executive Officer will re-circulate this to the Board as the final letter and will take any additional comments from the Board members and then the Chairman will sign and will then get sent out.

There was further discussion.

FUEL HAZARD REDUCTION, 2004 - HEARING

Mr. Zimny announced that the Board will be having a public hearing for the Notice of Rule Making published on September 3, 2004, the 45-days for the permanent adoption of the Fuel Hazard Reduction Emergency Notice Regulation. (See tab 8) Mr. Zimny went over the brief history on this regulation. The Emergency Regulation is effective for one hundred and twenty days from approximately October 26, 2004 to February 23, 2004. During the period of the Emergency Regulation, one hundred and twenty days, it's contemplated that the Board would consider adoption of a permanent rule. The 45-Day notice was published in September for a hearing today to consider adoption of the permanent rule.

In addition, when a certificate of compliance (final statement of reasons) is submitted to OAL during the effective period of the emergency, which is February 23, 2004, the conditions of the Emergency Regulations will be extended throughout 2005 and the permanent rule would then become effective January 2006.

Chairman Dixon asked Mr. Zimny if the above implies that the Board has up until the February meeting to adopt a permanent rule. That would give OAL 3 weeks to approve the rule and would have the effect of being under the temporary rule that was re-adopted in October until the end of the calendar year and then would become a permanent rule as of January 23, 2006.

Mr. Zimny said that is correct, but added it is not the adoption of the rule prior to February 23, 2004, but the submission of the entire package response to comments.

Chairman Dixon asked if the Board opens to public comment and package is not altered, would the analysis be easier.

Mr. Zimny responded yes.

Mr. Nawi, asked if written comments could be submitted at a subsequent meeting of continuation of the public hearing.

Mr. Gentry responded yes.

There was further discussion.

Mr. Zimny went over briefly the context of the rule. The rule establishes a new class of emergency notice under 1052 for the purposes of cutting and removing timber to reduce fuel hazard. The substantial parts of the regulation include, requirement of RPF to prepare this emergency notice, a description of the nature of the emergency, and the reason for the treatment in sufficient detail. It requires that the RPF develop specific vegetative treatment regarding the post harvest structure and results, and the criteria to select the trees to be harvested. It also entails compliance (reviewed by the RPF) in accordance with physical measurements and a series of photo examples of what an end product should look like. The geographical location where this emergency notice applies is very specific and applies to one quarter mile from legally permitted structures and only those structures that are in or adjacent to a community of risk as listed in the Federal Register in 2001. It also applies to 500 feet from any structure outside of the community at risk. It also applies to 500 feet from private roads that access structures and 500 feet from mainland roads that are identified in a public agency approved fire plan. It also includes the prescription to be permitted 500 feet from either side of ridges identified in a fire plan that is identified in a public agency fire plan or otherwise approved by a public agency.

Mr. Zimny also went over the vegetative treatments and diameter of tree requirements.

Mr. Nawi said he could not find anything on cumulative impacts on the Initial Statement of Reasons. He wanted to know if that was discussed.

Mr. Zimny said they were reviewed and in the context in terms of issues identified has relatively no impacts to cumulative effects.

Mr. Nawi asked about the language in the final paragraph on the environmental discussion and asked if it was meant to be an override on the conclusion because if there were no significant effects, therefore no statement of overriding consideration was needed.

Mr. Zimny said that they identified as many protective measures to mitigate any potential possibilities. If there are any effects remaining they were not brought to the Board's attention then the Statement of Overriding Considerations is made.

Mr. Nawi asked if the enactment of La Malfa affects that reason as a basis of overriding consideration.

Mr. Zimny responded by saying that he is prepared to say La Malfa adequately eliminates the risk as identified by the Board.

Mr. Nawi asked if he could obtain a copy of what was adopted in June, 2004.

Mr. Zimny said he would make copies available to Board members.

Mr. Bill Snyder, Deputy Director, Resource Management, Forestry and Fire Protection, said the Board should have a letter on file, which was dated October 18, 2004 indicating the Department's letter of support for the bills adoption. He asked if any Board members had any questions regarding that letter.

Mr. Nawi asked if the Department participated in the legislative process on the La Malfa legislation.

Mr. Snyder said within the normal process as they could. They made recommendations to Agency which then forwarded to the Administration.

PUBLIC COMMENT

Mr. Richard Geinger urged the Board to hold off the public hearing. He also said he concurred with Board member Nawi on his concern on cumulative effects.

Ms. Jodi Freidiani said she was concerned with the rule on the thirty-inch diameter tree size. It should be reconsidered and back to eighteen inches and be consistent with La Malfa. She asked that this rule not be adopted today.

Mr. Bill Keye, representing California License Forester's Association (CLFA), commented that regarding the cumulative effects said that wildfires don't require environmental impact reports and fires can be quite destructive. CLFA supports making this Fuel Hazard Reduction rule permanent. He also indicated that there is a lot of prescriptive language and is costly to landowners. The Board needs to look at the goal on fuel treatment. This effort focuses on wildland interface and the Board has the kind of authority to various criteria. He urged the Board to take a step back from politics and remember that the goal is fuel treatment.

Mr. Paul Mason, Sierra Club, distributed handouts on his comments and said there is no compelling reason this needs to get done today. He also said there is no fire related reason to take thirty inch trees. Cumulative impact has not been adequately discussed. Mr. Mason urged the Board to reject the package and leave the hearing open for more discussion.

Mr. Warren Alford, representing Sierra Nevada Forest Campaign, supported Mason's suggestion on encouraging positive projects for small landowners that are different than timber harvest plans. He said doing this through an emergency fire plan doesn't seem like the right way to go. He made a reference to Jack Cohen's work on fire and how projects affect homeowners.

Dan Fisher, Food Growers Supply Company, commented that the La Malfa limitation of 18-inch diameter was essentially a negotiated diameter not really considering feasibility of an operation. He said that Soper Wheeler did an excellent presentation yesterday at the Forest Practice Committee in which they conducted a demonstration on using 18 inch diameter on trees and how it would not be economically feasible. They would essentially have to pay for fuel treatment and could not offset it through timber harvesting. He commented that if an 18-inch diameter would be utilized, most people would not be able to treat their properties adequately for fire protection. Mr. Fisher said that he supports the Board in continuing with the proposed regulation and maintaining the larger diameter limit to allow flexibility to landowners to treat their fuels and at the same time be able to offset the cost.

Chairman Dixon referenced Senator Kuehl's comments and said that he hoped the Board members had an opportunity to read the letter, which was in the Board members folder. Chairman Dixon expressed disagreement on the comment Mr. Mason made regarding the Board having something negative to say to the legislature on this issue. The letter does raise some legitimate questions. Mr. Gentry will be drafting a response for the Chair's signature to Senator Kuehl to discuss the tone of her letter, but also some issues that were raised. The Board has an obligation to talk to the legislature. Chairman Dixon believes that Assemblyman La Malfa would consider amendments to this bill that may expand to include issues that the Board has considered on its Emergency Regulation. This regulation is not to make property owners rich.

The Board will ask in the letter to Senator Kuehl to set a meeting to resolve this issue. Chairman Dixon would like to meet with Assemblymen La Malfa and find out what his thoughts are on this process as it relates to Fuel reduction. There are reasons to take a look at the thirty-inch diameter and the reason is to protect the communities at risk and to reduce hazardous fuels.

Chairman Dixon felt that the Permanent Rule should be delayed. He will ask the Executive Officer and Board members regarding the 20 projects and come back to the Board on the rule that needs to be put in place. The Board will hold until they talk to representatives from the legislature.

Mr. Ryneanson commented that the Board needs to communicate with the legislature. In addition, he asked if the discussion from the two emergencies that have been passed to this day, could be written as part of the record for this particular hearing. The current record does not reflect all of those discussions. Member Ryneanson read two

paragraphs by Jerry Williams, Director of Fire and Aviation Management, Australian Fire Authorities Counsel in Australia. He asked if this paper could also be written as part of the record. In addition, he is in support of extending this rule till January.

Mr. Nawi agreed with the suggestion on extending rule and having communication with the legislature. There is potential litigation and felt that the rhetoric has increased in a negative manner. He also said it is hard to find a consensus when the Board is operating on two separate process.

Ms. Britting agreed on communication with legislators. She believes that by having productive conversation with legislators, the Board will gain some ground and end up with what we all want at the end, which is an effective way to treat fuel risks.

Mr. Bosetti agreed with the Chairman on supporting legislation. The Board wants effectiveness on treating fuel risks. It's a matter of getting something off the ground and cost effectiveness.

Mr. O'Dell said he liked La Malfa's spatial scope. He felt it was a good idea to talk to legislators. In addition, he said that delay is not the best answer, but working towards and managing the package will make both parties happy. Mr. O'Dell said he is fine with a month or so delay.

Mr. Rynearson said that the Board should not let this go past January. The focus needs to be on the diameter limit.

Chairman Dixon asked Board members to make a motion on continuing this process and to include Chairman's discussion with legislative leaders as well as the stats pursuant to an analysis of the projects currently under way.

Mr. Nawi moved to leave the public hearing open and continue the matter until the January meeting with concurrence on the Chairman's suggestion that he meet with members of the legislature as appropriate in writing to Senator Kuehl.

Mr. Nawi had a concern on the adequacy of the CEQA discussion in the Initial Statement of Reasons regarding cumulative impacts and quantifications of the potential scope of impacts. He also mentioned the nature of support on the override. Would it be possible for Board members to look at that discussion when it comes back to them in January, with the assistance of the Board's Counsel.

Ms. Britting expressed concern and asked Board members to look at the Informative Digest Policy Statement, in which there is a justification on the permanent rule which she read to Board members.

Mr. Bosetti made a reference on an inconsistency on the Notice of Proposed Rulemaking on page 4 and 9 of Rule Language.

04-8-3 Mr. Nawi moved to leave the public hearing open and continue the matter in the January 2004 Board meeting. Mr. Rynearson, seconded the motion. All Board members were in favor and the motion was carried unanimously.

Chairman Dixon reported that a letter will be sent to Senator Kuehl promptly and will also set up a meeting with Senator Kuehl and Assemblymen La Malfa expediently as possible. He also asked the Executive Officer and his staff to do an analysis on the projects.

DISCUSSION REGARDING AB 2420 (LA MALFA): FOREST PREVENTION EXEMPTION, 2004

Mr. Chris Zimny, Regulations Coordinator, went over the agenda on the adoption of the Emergency Forest Fire Exemption previously termed 2420, La Malfa Regulation. Mr. Zimny asked Ms. Britting, Forest Practice Committee Chairman, if she had any comments on adoption or voting on this issue in yesterday's Committee meeting.

Ms. Britting reported that the Committee worked on revisions on the product they had before them in October, 2004 and the Committee unanimously recommended with one exception. The one exception was on page 3, line 22, referencing the stump diameter.

Mr. Nawi asked member Britting for a copy of Assembly Member Jackson's letter that she has referenced on this issue.

Mr. Zimny said that he will recover the letter and re-distribute to the Board members.

Mr. Zimny gave some additional background on the adoption of the Emergency Fire Exemption. In September the Governor signed AB2420, and it required adding a new exemption class to 1038 of the Forest Practice Rules. The fundamental requirements of this rule were the logging area for any one exemption is 300 hundred acres in size. The goal of the treatment is to decrease fuel continuity. An RPF will be involved to supply a map as far as the submission. The RPF shall upon submission of notice include a description of the standing structure of the predisposed harvest and the residual stand shall consist of a healthy codominant trees and stocking standards. In addition, it has specific archeological documentation requirements.

Mr. Zimny reported that this adoption permits removal of a maximum of 18 inch tree stump diameter. Chairperson Britting and Committee members left for the Board to decide if that diameter could be inside bark or as simply 18 inches stump diameter. The geographical location of the exemption applies to 500 feet from structures or fuel breaks identified in a public agency plan. The treatments can go to twenty-four inches where a necessity has been given that the treatment is required near structures. Additional requirements of the regulation are that the post harvest stand condition will have similar canopy requirements of the identified Board in this June 9, 2004 adoption of the Board regulation.

The post harvest canopy requirements are exactly the same as the Boards in that they require forty to sixty percent post harvest canopy retention of a dominant codominant trees following the operation.

Mr. Zimny went over the ladder and surface fuel treatments. In addition, he went over the prescribed burning operations of the regulation. The rule is basically exactly what the legislation is; except for the one interpretation that Chairperson Britting made on the stump diameter and one interpretation the Committee made regarding that all burning operations shall be completed by April 1, 2005.

Chairman Dixon asked member Britting to reiterate what the Committee recommended on the inside and outside tree stump diameter.

Ms. Britting said that the Committee was unanimous in all areas except for the inside and outside of the tree stump diameter.

Mr. Zimny reported that the Committee recommended adoption of the regulation as it is. It would be adopted on an emergency basis and would be applicable for one hundred and twenty days, from the date that this was filed. The Board would then follow with the adoption of the permanent rule during that period of time. The conditions of the emergency regulation would not be in effect till 2005; the permanent regulation would not come into effect till 2006.

Chairmen Dixon asked if Hannah Beth Jackson's, Assembly Chair, Resources Committee, intent in her letter regarding the La Malfa legislation was to interpret the 18-inch diameter as being outside.

Mr. Zimny responded yes.

Chairman Dixon asked what the discussion was in Committee regarding the 18-inch tree stump diameter.

Mr. Bosetti commented that the legislation was silent on the type of measurement and indicated that the diameter would be measured at stump diameter of eight inches above ground level. They did not indicate inside bark or outside bark. Member Bosetti felt that it is better to measure on inside bark because it is easier and cleaner diameter to measure once the stem has been severed. In addition, the conventional practice when measuring trees when they are standing is to measure the diameter outside bark because you cannot get inside the bark.

The unit of measuring for logging is typically always inside bark. When a tree has been severed and laid on the ground it is difficult to measure inside bark diameter. Member Bosetti indicated that there is variability when the operators are cutting the trees mechanically.

Chairman Dixon asked the Board members if they believe that the advice that came from the legislative Committee came from non-foresters or legal.

Ms. Britting responded by saying that going back to the introduction of the exemption language if the Board uses the phrase in relation to a forty-eight inch tree in diameter at stump height. When the Department was queried on this issue in terms of how they interpret that statement, they used outside stump diameter. That is private practice on measuring stump diameter on trees. There is greater degree of certainty when the cut occurs.

Mr. Nawi asked if the Board were to adopt the language for this exemption, would that mean the outside diameter of the tree.

Ms. Britting said yes to member Nawi's question.

Mr. Nawi, commented that he would not like to see a regulation go forward that is not clear on the language, because OAL has to look at this exemption in terms of clarity.

There was further discussion.

Chairman Dixon asked Mr. Zimny on what the Boards timeframe was on this exemption. In addition, he said that he would like to have a discussion with the person who wrote this. The outside and inside measurement makes a big difference. The Chairman wanted to get this issue cleared before they vote on adoption of this exemption.

Mr. Zimny reported that this legislation was passed with an urgency clause and that requires the Board to first adopt this as an emergency regulation. He said that he would research this with OAL to get a determination on how quickly we have to adopt an emergency regulation.

There was further discussion.

PUBLIC COMMENT

Mr. Paul Mason, representing the Sierra Club, said that you measure from the outside bark diameter and not the inside.

Mr. Richard Geinger announced that the Board should wait till December to incorporate La Malfa provisions. There should be experts on size limitations on fuel reduction. He indicated that there needs to be a balance to enable an effective Fuel Hazard Reduction. He would like to see the Board take this up on December's meeting.

Ms. Jodi Freidiani, Citizens For Responsible Forest Management, said that the definitions on forest practice rules are pretty clear in that it specifies outside bark. In addition, she said that the Board should ensure this rule is commercially viable.

Mr. Ryneanson said that the Board has a one hundred and twenty day period and said that if there needs to be changes, the Board has one hundred and twenty day period to do so. He indicated that it may be useful to leave the language as it is and not to stipulate inside or outside bark diameter, but simply identify as eighteen inch stump diameter and go back to the author of the bill and discuss the issue with them, including the issues that were discussed at today's Board meeting. Member Ryneanson is willing to make a motion to move this forward and have interim discussions between now and the determination of this Emergency to clarify some of the issues discussed at the Board meeting.

Ms. Britting indicated that the Board should create some charts on height and inside and outside stump diameter of trees. She felt that if there was a concrete statement to refer to, it might help clarify some of the issues for those who are concerned. Ms. Britting seconded the motion.

Mr. Nawi was concerned if the Board used the language of the legislation how it would be interpreted. Is the Board saying outside diameter or is it being left ambiguous. Are the words left as is sufficient to meet the Administrative Procedure Act, (APA) of clarity.

Chairman Dixon responded by saying that he understood member Rynearson's motion to imply that it would include outside diameter.

Mr. Rynearson made a clarification by to the Chairman and said that what he said was to leave the wording exactly as the act states.

Mr. Nawi asked if this was going to meet APA standards.

Mr. Bruce Reeves, Deputy Attorney General, Counsel for the Board, responded by saying that was the Boards call to make and ultimately OAL's.

Mr. Nawi said that the record should indicate that the Board has met the standard of clarity by using the legislative language when discussing outside and inside stump diameter and would support motion.

Mr. O'Dell said that he would support the motion if there was not any adornment on the diameter. Member O'Dell would not support if put too much emphasis on diameter.

Chairman Dixon said the Board has one hundred and twenty days to resolve the issues with the legislature.

Mr. Bosetti said that he supports moving this as an Emergency Regulation here today, but had a comment relative to the discussion on the authors of the bill regarding an operational issue on legislation in the Emergency Regulation that the Board wants to adopt. He referenced page 5, line 4, where time frame in treatment is referenced. He suggested that when the Board speaks to the authors of this legislation, the time frame of completion of this operation should be discussed.

Mr. Rynearson reported that he would like to move forward as an Emergency Regulation.

Ms. Britting went over the emergency condition and La Malfa Rule and asked how the Board was going to work this into the next 60 days.

Chairman Dixon said it should be itemized on the next meeting agenda.

Mr. Dixon asked for a roll call vote on this action.

04-8-3 Mr. Rynearson moved to adopt the exemption for Fuel Hazard Reduction as an emergency rule for one hundred and twenty day period and leave language as is to reflect eighteen-inch stump diameter. Ms. Britting seconded the motion, and a roll call vote was taken.

Bosetti	Aye
Drinkard	Aye
Nawi	Aye
Rynearson	Aye
Britting	Aye
O'Dell	Aye
Dixon	Aye

The motion carried unanimously.

REPORT OF THE OAK MORTALITY TASK FORCE (COMTF)

Ms. Katie Palmieri, Public Information Officer, Oak Mortality Task Force, (COMTF), went over handout (tab ten), included in the Board binder.

Mr. O'Dell asked if the new phytophthora is more infectious and more aggressive than ramorum.

Ms. Palmieri said that it has been newly identified and is not sure how widely distributed it is to the various host.

RANGE MANAGEMENT ADVISORY COMMITTEE (RMAC)

Mr. Jeff Stephens, representing the Range Management Advisory Committee (RMAC), announced that Mr. Rob Rutherford resigned his position with RMAC. Mr. Stephens indicated that they have a nomination for his replacement to serve out the remainder of his term and that person is Mel Thompson, who also is a Rancher and has experience with Range Management issues. Chairman Kenneth Zimmerman asked the Board to consider appointing Mr. Thompson for the remainder of Mr. Rutherford's term, which ends January 15, 2005. The nomination application was included in the Board binder, under tab 15.

Mr. Bosetti asked Mr. Stephens to explain to the Board the reason for the interim appointment.

Mr. Stephens reported that RMAC will be having a meeting January 4 and 5, 2005, where they will be taking up issues with the Department's Vegetation Management Program and Chairman Zimmerman wanted Mr. Mel Thompson to have voting authority at that meeting.

Mr. Stephens reported that effective January 2005 there would be two additional vacancies in RMAC, for a total of three positions for the upcoming Board meeting in January 2005.

04-15-3 Mr. Bosetti approved the nomination of Mr. Mel Thomspson to RMAC.

Mr. O'Dell, seconded the motion. All Board members were in favor and the motion was carried unanimously.

MONITORING STUDY GROUP (MSG)

Mr. Pete Cafferata, Forest Hydrologist, Department of Forestry and Fire Protection, Monitoring Study Group, (MSG), gave a brief report on three main items which was included in the Board binder. He went over the Cooperative Instream Monitoring Projects. The South Fork Wages Creek Project is progressing for installing one new sampling station at the lower end of the Fork Wages Creek, in Mendocino County this winter. On the Garcia River Cooperative Instream Monitoring Project, Terri Joe Barber, working for the Mendocino County RCD, reported that the Inman Creek tributary of the Garcia River had been selected. The ISCO pumping sampler that CDF purchased last year will be installed at the Mill Creek station. Dr. Cajun James with SPI has written a preliminary study plan for Judd Creek project and CDF has posted this on the MSG website. The THP for the Judd Creek watershed continues in second review in Redding. The MOU between CDF and SPI should be available for signature very shortly. The next MSG meeting is scheduled for November 10, 2004 at 10:00 a.m. at the Mendocino County Museum in Willits.

REPORT OF FEDERAL AGENCIES; INCLUDING USDA FOREST SERVICE, NATIONAL MARINE FISHERIES SERVICE, US FISH & WILDLIFE SERVICE, AND US ENVIRONMENTAL PROTECTION AGENCY

Nothing to report.

REPORT OF STATE AGENCIES; INCLUDING STATE WATER QUALITY CONTROL BOARD, DEPARTMENT OF FISH AND GAME, GEOLOGIC SURVEY

Mr. Gaylon Lee, State Water Resources Control Board, referred to a handout that was distributed by Mr. Gentry for all Board members on the State Water Resources Control Board status report. He went over the status of SWRCB Policies germane to Forestry and the status of General Waste Discharge Requirements and Waivers for Timber Harvesting, (table 1 of the handout). In addition Mr. Lee also went over the legal actions germane to Forestry and Water Quality.

REPORT OF THE SENSITIVE WATERSHED NOMINATIONS REVIEW COMMITTEE (SWNRC)

Mr. George Gentry reported that there was no meeting held this month. The next scheduled meeting is scheduled for December 16, 2004. Last month additional information was requested from North Coast Regional Water Control Board. The NCRWQCB also sent a letter to address the draft minutes, which were sent out last month. The NCRWQCB notified other parties that were submitting information on which they based their analysis, but these parties were slow getting information to NCRWQCB and this may delay the process .

Chairman Dixon reported that at the last Board meeting, regarding the Humboldt Watershed Council Presentation, he did not have an opportunity to review the observations from their workshop . The Chairman will spend some time on this matter this month and will get back to the Board with some recommendations at December's meeting.

FOREST PRACTICE COMMITTEE (FPC)

Ms. Sue Britting, Chair of the FPC, went over the discussion the Committee had on the Heritage Tree petition. The Committee also went over La Malfa Fuel Hazard Reduction. Soper Wheeler gave an informative presentation. The Committee did not go over the N.T.M.P. issues, however, they will be discussing this at December's meeting. The Committee revisited the transitional silviculture method and had an update from Roy Richards and the Department is making good progress in understanding about some of the field conditions out there. The Committee will be hearing from them in January.

POLICY AND MANAGEMENT COMMITTEE (PMC)

Mr. Tharon O'Dell, Chair of the PMC, reported that the Committee went over goals, tasks and policy statement. On November 18, 2004, the Committee will be having a hearing in Redding. In regards to the Oak Woodlands Mr. Eric Huff will be getting together with member Marckwald for input in this matter. The Board should have recommendation on this issue and RMAC is included as well.

The Committee had a presentation from Dale Holderman, Santa Cruz County.

Mr. Nawi went over the Performance based approach.

AD HOC ROADS AND WATERSHED COMMITTEE

Mr. Gary Rynearson, Chair of the *Ad Hoc* Committee, reported that the Ad Hoc Committee met yesterday and went over four agenda items. They addressed the Road Management Plan and said it has been referred back to Committee for some issues that were raised during the public hearing that was held last month.

Mr. Rynearson reported that the Committee went over the Road Definitions and decided to put them on hold until they have completed the review of the interagency road rule package. A recommendation was made by Mr. Tom Spittler , CGS, that perhaps they needed a subcommittee at the Ad Hoc Committee that was comprised of both agency members who helped formulate these packages. The objective was to go through the interagency road rules package that was presented last year to the Committee. The Committee has volunteers for this Committee and member Rynearson is looking for guidance and approval from the full Board on the subcommittee. They hope to start that Committee in January 2005.

Mr. Ryneerson went over the discussion the Committee had on the Watershed approach. Mr. Geinger brought forward that he needed to have something on cumulative watershed evaluation that was done in cooperation with the landowners and agencies that previously discussed .

Mr. Ryneerson asked for full support from the Board on moving forward with the subcommittee in addressing the Road Rules.

Ms. Britting asked if the Department of Fish and Game and NOAA Fisheries would be a part of this Subcommittee.

Mr. Ryneerson said that the Department of Fish and Game would be a part of this Committee, but NOAA Fisheries would not be participating in the interim Committee. Member Ryneerson indicated that they would be invited.

Chairman Dixon indicated that this could be done by consensus, and all Board members were in agreement.

RESOURCE PROTECTION COMMITTEE MEETING (RPC)

Mr. Bosetti reported that the RPC Committee met yesterday afternoon and received a report from Chief Wright announcing that Tulare County's Schedule A contracts cannot be renewed. This is as a result of Tulare County's financial condition. At this time the Department and County are exploring what options they have at this time.

Mr. Bosetti said that Mr. Tom Hoffman gave an update on where he is at relative to selection of the stakeholder group that he put together on the fire plan. Mr. Hoffman indicated that he is ninety percent complete on that Committee selection. The Committee should be filled by next month.

In Committee Mr. Hoffman indicated that the Department is preparing a Guidance document to distribute to the Region relative to the Fire Plan.

Chief Wright and Tom Hoffman did a presentation relative to Senate Bill 1369. The Department had issued a draft letter to the Region Chiefs and Unit Chiefs regarding this bill change. In the process of reviewing this Senate Bill 4291, the Department felt that the Board needs to provide them with assistance in going through the regulatory process in defining some terms that were utilized in legislation.

The Committee had an update from Mr. Bill Snyder and Chris Rowney on the Nursery Program.

Mr. Bosetti went over the presentation on discussions and recommendations regarding Marin County's General Plan.

The Committee received a report on the Disabled Veterans Program (DVBE), relative to the Board's oversight on that program. Mr. Dan Lang gave a presentation on the status of that program.

REPORT OF THE REGULATIONS COORDINATOR

Mr. Chris Zimny, Regulations Coordinator, went over the following agenda items:

Item eighteen - recommendation Fuel Hazard reduction agenda has been delayed until January.

SRA - Recommendation 45 day notice- delayed till January on recommendation from Committee.

Recommendation for adoption on emergency La Malfa, was completed today.

15-Day recommendation transition has not come out of Committee

Notice to repeal emergency rule has now been forwarded by Committee

Recommendation for a 15-Day notice for a Road Management Plan is still being formulated and has not come out of Committee.

The Regulation Calendar in the binder will be updated for the next meeting.

Public Forum

Mr. Richard Geinger encouraged the action on the Monitoring Study Group in conjunction with Fish and Game on the Timberland recommendation in the Coho Recovery Strategy. He felt that is important to get something that is viable and get it started so that plan proponents understand what their post operation responsibilities should entail for monitoring which is a benefit to all concerned. He emphasized the need to change the cumulative watershed effect process that was brought up in the Ad Hoc Committee.

Mr. Geinger inquired about the agenda on the December meeting and asked if there was time to have some Committee discussions on some of these issues.

Chairman Dixon said that the Board would be discussing goals and objectives for next year. In addition, the Board wanted to hold it to a one-day meeting. At this time the agenda has not been finalized.

Mr. Bill Keye, representing CLFA, announced that Dan Weldon had heart surgery a couple of weeks ago and is doing well.

Mr. Keye announced that the white papers have been completed and he distributed the copies.

NEW AND UNFINISHED BUSINESS

Nothing to report.

ADJOURNMENT

Chairman Dixon adjourned the November 2004 meeting of the Board.

Respectfully submitted,

ATTEST:

George D. Gentry
Executive Officer

Stan Dixon
Chairman

Copies of the attendance sheets can be obtained from the Board Office.